IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 22390 of 2007(M)

PETITIONER:

PRASANT KUMAR VARMA,
S/O.OM PRAKASH VARMA, RAMLEELA GROUND,
PUBHRAYA, KANPUR DEHAT U.P.THROUGH POWER OF ATTORNEY
HOLDER RAJU SACHAN, S/O.RAM SEVAK, 521A,
VISHWA BANK COLONY, KANPUR NAGAR.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

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1. THE EXCISE INSPECTOR, KUMBALA RANGE,
KASARAGOD.

2. THE ASSISTANT EXCISE COMMISSIONER,
KASARAGOD.

3. THE ASSISTANT EXCISE COMMISSIONER,
BONDED WARE HOUSE, CANTEEN STORES DEPARTMENT,
GANDHI NAGAR, KOCHI - 682 020.

4. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

BY ADV. SHRI.I.V.PRAMOD, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

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W.P(C) No. 22390 of 2007

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Dated this, the 30th July, 2007.

J U D G M E N T

The lorry with liquor bottles brought in by the petitioner for delivery to the defence canteen, at Cochin, were intercepted at the Mancheswaram check post and on the ground that as per the permit conditions this was to be routed through the Walayar chcek post and therefore the petitioner has violated Section 56(b) of the Abkari Act.

2. The contention of the petitioner is that the liquor bottles being the property of the Government there is absolutely no violation of any law. The petitioner's further contention is that if at all there is any violation the same is only technical in nature, especially because of the fact that the property belongs to the Government and the petitioner cannot in any way violate any law in respect of such property, whatever that be. He submits that he was forced to divert through the Mancheswaram check post due to circumstances beyond his control and not for any ulterior purpose, which fact is evident from the fact that the liquor is intended for the defence canteen.

3. I have heard the learned Government pleader also. I am not inclined to go into the contentions of the parties now. In so far as the papers are now stated to be forwarded to the 4th respondent,

Commissioner of Excise, for appropriate orders, by the 2nd respondent, the petitioner shall file an application for release of the lorry and bottles before the 4th respondent. The 4th respondent shall consider the same and pass appropriate orders thereon, within ten days from the date of receipt of the application.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE.

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